

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the)	SUMMARY OF FACTS
Complaint Against)	AND
Angelo Bianco)	STATEMENT OF FINDINGS

Melodee Hanes filed a complaint against Angelo Bianco, a candidate for House District 16 in the 2002 election. The complaint alleges that Bianco accepted a contribution in excess of the contribution limits established in Montana Code Annotated § 13-37-216 and alleges he offered an illegal consideration for voting, a violation Montana Code Annotated § 13-35-215.

SUMMARY OF FACTS

1. In 2002 Angelo Bianco was an unsuccessful candidate for the House District 16 seat in the Montana House of Representatives.

2. The Billings Outlaws is a professional football team in the National Indoor Football League. The Outlaws play home games at the Billings MetraPark, a public, multi-use facility in Billings that includes a 10,000 seat arena. Duane Anderson is owner and chief executive officer of the Outlaws.

3. Anderson rents two skyboxes at the MetraPark. Skyboxes are private, enclosed observation areas located in the upper levels of the MetraPark. Anderson uses the skyboxes primarily for viewing Billings Outlaws' football games. One skybox seats 11 people, and the other seats 15 people.

4. The Montana State Republican Party Central Committee had a booth at the 2002 Billings, Montana Fair. Bianco placed an advertisement at the booth, offering the first 250 people who contacted him a chance to win four tickets to a Billings Outlaws'

game at the MetraPark. The prize also included the right to view the game from one of the skyboxes in the MetraPark. To qualify for a chance to win the tickets, a caller had to agree to permit a Bianco campaign yard sign to be placed on his or her property. The winner of the tickets was chosen in a drawing held on election night.

5. At one time Bianco was part owner of the Billings Bulls, a professional hockey team in the American West Hockey League. The Bulls play home games at the MetraPark. Duane Anderson contemplated investing in the Bulls but ultimately decided not to do so. Bianco became acquainted with Anderson through their association with the Bulls. Anderson permitted Bianco to use one of Anderson's skyboxes to view Bulls' hockey games for a fee of \$100 per game. Bianco allowed sponsors of the Billings Bulls to use the skybox in exchange for their support of the team.

6. Anderson recently allowed someone to use one of his skyboxes at a charge of \$100 per day to view Class B basketball championship games held at the MetraPark arena. The person had exclusive use of the skybox for the day and could invite others to view the games from the skybox. In addition to the skybox charge of \$100, anyone attending had to pay the MetraPark for tickets to the event.

7. According to representatives of the MetraPark, there are ten skyboxes that are rented on a three-year contract basis to various individuals and businesses. The cost of these skyboxes ranges from \$10,000 to \$12,000 per season. Those who rent skyboxes have the right to charge a fee to others for use of a skybox, and there is no established or standard rental fee.

8. Seating prices in the MetraPark vary, depending on the event and the seat location. The Duane Anderson skybox seats are located in mid-level area sections 1, 2,

and 3 of the MetraPark. Tickets for seats in that particular area, to view Billings Outlaws' games, cost \$16.25 apiece; therefore, the four tickets that constituted the prize offered by Bianco would normally cost \$16.25 each, or a total of \$65.00. The cost of the tickets is separate from any fee that might be charged by the person or business who rents a skybox to someone (e.g., the \$100 per night that Anderson typically charged for use of one of his skyboxes).

9. Bianco recalls that Anderson suggested an arrangement whereby people who agreed to have a Bianco campaign sign on their property could be eligible for a drawing to win tickets to a Billings Outlaws' game to be viewed from one of Anderson's skyboxes. Bianco thought that was a good idea, and he asked Anderson whether he would donate four skybox tickets to Bianco for his campaign. Anderson agreed to do so, and he gave Bianco four skybox tickets for a Billings Outlaws' game. Bianco did not have to pay Anderson \$100 or rental of any amount for the use of the skybox.

10. Bianco placed a value of \$100 on the four skybox tickets based on his past practice of paying Anderson \$100 for use of one of the skyboxes to view hockey games. According to Bianco, as owner of the team Anderson has the right to provide a certain number of complimentary tickets, so Bianco did not assign any additional value to the tickets.

11. Whoever won the four skybox tickets offered by Bianco would not have exclusive use of the skybox but would share the skybox with other viewers.

12. Bianco recalls receiving approximately 20 calls in response to his advertisement offering the chance to win the four tickets. Keith Broyles, Tour America RV owner, won the tickets, and a Bianco yard sign was placed at his business location.

STATEMENT OF FINDINGS

Contributions in Excess of Statutory Limits

For each election in a campaign, Montana Code Annotated § 13-37-216(1)(a)(iii) limits aggregate contributions by an individual to a candidate for the Montana Legislature to \$100.¹ The complaint alleges that four skybox tickets to a Billings Outlaws' game would be worth at least \$300, which exceeds the \$100 limit. The value of the tickets is at least \$16.25 apiece, or \$65.00, which is the amount that a person would normally pay to view a Billings Outlaws' game from that area in the MetraPark. In addition, If the winner of the tickets had exclusive use of one of Anderson's skyboxes, the value of the tickets would be \$165.00, based on Anderson's typical \$100 per event charge for use of the skybox; however, as noted in Fact 11, the person who won the tickets and the other three people he or she decided to bring to the game were required to share the skybox with other people.

There is certainly some additional value in having use of a skybox in contrast to general seating in that area of the MetraPark; but because the ticket holders did not get exclusive use of the skybox, it is impossible to assign a dollar amount to that additional value. It is clear that the value of nonexclusive use of a skybox is considerably less than the value of exclusive use of the skybox. For that reason, while there is some evidence that the value of the four tickets exceeded \$65.00, there is insufficient evidence that the total value of the contribution by Duane Anderson to Bianco exceeded \$100.

Alleged Illegal Consideration for Voting

The complainant alleges that the offer of a chance to win the four tickets in exchange for providing a campaign sign location "is tantamount to compensation or consideration in exchange for sign location and voter support." The complainant alleges

¹ Senate Bill 423, recently passed by the Legislature and signed into law by the Governor, increases this limit to \$130, effective October 1, 2003.

that this violates Montana Code Annotated § 13-35-215, which provides, in relevant part:

Illegal consideration for voting. No person, directly or indirectly, by himself or by any other person in his behalf, may:

(1) before or during any election, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at the election or for inducing another to do so:

(a) receive, agree, or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for himself or any other person; or

(b) approach any candidate or agent or person representing or acting on behalf of any candidate and ask for or offer to agree or contract for any money, gift, loan, liquor, valuable consideration, office, place, or employment for himself or any other person.

This statute prohibits certain conduct that could be construed as an offer of illegal consideration for voting or refraining from voting. There is no evidence, however, that those who offered to provide a location for placement of a Bianco campaign yard sign also offered or promised to vote for Bianco. Neither the cited statute nor any other statute prohibits an offer of a chance to win something of value in exchange for providing a campaign sign location.

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is insufficient evidence to justify a civil prosecution based on allegations that Angelo Bianco violated Montana campaign finance and practices laws.

Dated this _____ day of May, 2003.

Linda L. Vaughey
Commissioner